

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CAROLE SABBETH, individually and as
a member and on behalf of FUTURE 1st LLC.,

Plaintiff,

-against-

ORDER

CV 07-1960 (SJF)(ARL)

PATRICIA MANDARINO, FRANK
MANDARINO and ANGEL GUARD, LLC.,

Defendants.

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LINDSAY, Magistrate Judge:

Before the court is the defendants' letter application seeking to stay discovery until Judge Feuerstein renders a decision on their motion for Judgment on the Pleadings. After holding two conferences in this matter, Judge Feuerstein directed the undersigned to immediately meet with the parties and enter a scheduling order. It is clear from that direction that Judge Feuerstein intended discovery to go forward. Accordingly, the motion for a stay of discovery is denied.

With respect to the defendants' depositions that were noticed for New York, the plaintiff is advised that there exists a presumption that a defendants' deposition should be held where they reside. *See Dagen v. CFC Group Holdings Ltd.*, 2003 U.S. Dist. LEXIS 13859 * 2 (S.D.N.Y. Aug. 11, 2003)(defendants are not before court by choice so plaintiff bears the burden of any inconvenience that action presents). The defendants have, however, offered to hold video depositions to save the plaintiff the expense of flying to Florida, but the plaintiff has rejected that offer. Accordingly, the defendants' depositions are to take place in the district where they reside unless the plaintiff wishes to conduct video depositions.

Dated: Central Islip, New York
May 8, 2008

SO ORDERED:

_____/s/_____
ARLENE R. LINDSAY
United States Magistrate Judge